



3744

BUTZEL LONG
350 SOUTH MAIN STREET
SUITE 300
ANN ARBOR MI 48104

COPY MAILED

FEB 05 2004

OFFICE OF PETITIONS

In re Application of
Yoshizawa, et al.
Application No. 10/635,042
Filed: August 5, 2003
Attorney Docket No. 121056-0042
For: CHANNEL SELECTORY VALUE &
METHOD OF DRIVING THE SAME,
COMPRESSOR WITH THE CHANNEL
SELECTOR VALVE, & DEVICE FOR
CONTROLLING REFRIGERATING
CYCLE

:
:
: DECISION DISMISSING
: PETITION
:
:

This is a decision on the petition, filed November 14, 2003 (certificate of mailing date November 11, 2003), requesting, in effect, withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed November 3, 2003, insofar as it alleges that page 284 of the specification was omitted upon initial filing. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53(e) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

The application was filed on August 5, 2003. On November 3, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that page 284 of the specification appeared to have been omitted.

A review of the specification filed on August 5, 2003 reveals that page 182 is present. **The page that is missing is page 42.** The November 3, 2003 Notice is withdrawn with respect to the allegation that page 182 is missing. However, page 42 is missing and the November 3, 2003 Notice should have stated this fact.

Petitioners filed the instant petition in response to the November 3, 2003 Notice. While the allegedly omitted page number of specification has changed (p. 42 instead of p.182), the same evidence applies towards proving page 42 was present upon initial filing.

Petitioners have provided a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing August 5, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 284 pages of specification. A review of the application file reveals that 283 pages are present. Page 42 is missing.

The return postcard constitutes *prima facie* evidence that 284 pages of specification, including page 42, were filed on August 5, 2003. MPEP 503.

Unfortunately, the instant petition cannot be granted until petitioners provide a copy of page 42. The application cannot undergo further processing without a copy of page 42.

The application file will be retained in the Office of Petitions until page 42 is submitted. No petition fee has been charged in connection with this matter.


Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions -- E. Shirene Willis

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.


E. Shirene Willis
Senior Petitions Attorney
Office of Petitions